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6   **UNITED STATES DISTRICT COURT**

7   **DISTRICT OF NEVADA**

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9   HENRY FROMETA GONZALEZ,

10   Petitioner,   Case No. 2:13-cv-02275-APG-GWF

11   vs.   **ORDER**

12   JAMES GREG COX, et al.,

13   Respondents.

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15   The court directed petitioner to show cause why this action should not be dismissed because

16   he has failed to exhaust his available remedies in the state courts. Order (#4). Petitioner has

17   submitted two documents (#5, #6). The court is not persuaded, and the court dismisses this action.

18   As the court noted in its earlier order, petitioner is challenging the computation of time that

19   he must spend in prison. In the documents that petitioner filed in response, he describes his

20   repeated efforts to gain relief in this court. The key case is Gonzalez v. Cox, Case No. 2:13-cv-

21   00157-APG-NJK, which was a civil rights action pursuant to 42 U.S.C. § 1983. The court

22   dismissed that action because the relief that he sought was not available in a § 1983 action.

23   Petitioner argues that the court invited him to file a habeas corpus petition in this court. He is

24   wrong. The court actually held:

25   Plaintiff is advised to bring this claim as a petition for writ of habeas corpus, which should
            be brought in the first instance to the state court where he was convicted. See 28 U.S.C.
26   § 2254(b)(1).

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1   The court told petitioner that he needed to exhaust his claims in state court before he raised the

2   claims in this court. Petitioner's failure to follow instructions does not excuse him from the

3   requirement that he exhaust his claims in state court. The court will dismiss this action.

4   Reasonable jurists would not find the court's conclusion to be debatable or wrong, and the

5   court will not issue a certificate of appealability.

6   IT IS THEREFORE ORDERED that this action is **DISMISSED** without prejudice for

7   petitioner's failure to exhaust his available state-court remedies. The clerk of the court shall enter

8   judgment accordingly.

9   IT IS FURTHER ORDERED that a certificate of appealability is **DENIED**.

10   DATED: _July 1, 2014._

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13   ANDREW P. GORDON
          United States District Judge

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